



**Chandler • Arizona**  
*Where Values Make The Difference*

A.

JAN 11 2012

Chandler



2010

**MEMORANDUM**

**Transportation & Development – BA Memo No. 11-016**

**DATE:** DECEMBER 29, 2011

**TO:** BOARD OF ADJUSTMENT

**THRU:** R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR  
JEFF KURTZ, PLANNING ADMINISTRATOR  
KEVIN MAYO, PLANNING MANAGER

**FROM:** BILL DERMODY, SENIOR CITY PLANNER

**SUBJECT:** VAR11-0009 KNIGHT RESIDENCE

**Request:** Variance from the Zoning Ordinance to allow a ramada structure to encroach into the minimum rear and side yard setbacks and to exceed the maximum size for an “open-air ramada”

**Applicant:** Todd C. Knight

**Location:** 4340 E. Beechnut Place, south and east of Chandler Heights and Lindsay Roads

**Existing Use:** Single-Family Home

**Zoning:** Planned Area Development (PAD)

**RECOMMENDATION**

Staff, upon finding the need for a variance to be self-imposed and the criteria by which all variances are reviewed to not be satisfied, recommends denial of the requested variance.

**BACKGROUND**

The application requests a variance from the zoning requirements to allow a ramada structure to encroach 2’-6” into the minimum 5’ side yard setback for open-air ramadas, and 2’-6” into the minimum 5’ rear yard setback for open-air ramadas, leaving 2’-6” setbacks in both directions. Also, the application requests relief from the Zoning Code definition of an “open-air ramada” in order to exceed 150 square feet in size. The requested ramada is approximately 185 square feet.

Alternatively, the ramada structure could be considered an "accessory building" as it normally would be by the Zoning Code due to its size. As an "accessory building", the requested variance would be an encroachment of 5'-6" into the minimum 10' side yard setback, and 16'-6" into the minimum 20' rear yard setback. This would result in a 4'-6" side yard setback and a 3'-6" rear yard setback.

Staff notes that setbacks are measured differently for an "open-air ramada" versus an "accessory building". For an "open-air ramada", setbacks are measured to the edge of the overhang. For an "accessory building", setbacks are measured to the posts, so long as the overhang is 2' or less. Staff estimates the structure's overhangs (beyond the columns) are approximately 2' toward the side property lines and 1' toward the rear.

The property, which contains a single-family home, is located in the Whispering Heights subdivision zoned PAD. Most of the interior lots in the subdivision range from approximately 9,700 to 12,000 square feet in size, while the perimeter lots are substantially larger, up to 37,000 square feet in size. The subject lot is slightly pie-shaped with a rear property line that is 5' wider than the front property line (77' vs. 72'), though it is generally rectangular. The typically sized and shaped lot of 9,821 square feet contains a 2,547 (livable) square foot house just built in 2011.

As noted in the application, the subject property has a 6'-high wall on its rear property line, and a 4'-high retaining wall adjacent to that. Essentially, it is a sunken back yard relative to the neighbors behind it. The 10'-high ramada structure is approximately the same height as the rear property wall. The side property walls are the customary 6' heights, with no associated retaining walls. The 6'-high wall and gates adjacent to the front of the house serve to block the ramada base from street view, but not the ramada shade and upper posts. Please see application site plan and photographs for further illustration.

The ramada was recently constructed without proper permits. Building permits will be required if a variance is granted.

### **CODE REQUIREMENTS**

The definition of an "open-air ramada", minimum setbacks for an "open-air ramada", and minimum setbacks for accessory buildings are established by the Zoning Code:

#### **35-200. Definitions.**

*Open-air ramada:* A detached accessory building or structure open on the sides and supporting a roof or lattice-type cover, primarily for the purpose of providing shade in conjunction with a recreational activity, such as a swimming pool, Jacuzzi, or sitting area, and not to exceed both ten (10) feet in height and one hundred fifty (150) square feet in area, and separated from the residential dwelling by a distance equal to at least one-half (1/2) of the rear yard setback.

The requested ramada is approximately 185 square feet in size.



**35-2202. Accessory buildings.**

(2) Accessory buildings shall meet the minimum side and rear yard setbacks for the district in which it is located, except that open-air ramadas as defined by this Code [in section 200] may achieve a minimum five-foot side yard and five-foot rear yard setback, as measured from the edge of the roof or cover. In the event that an alley, or common open space public or private other than a street, adjoins the rear yard along one (1) or more of the property lines, the required five-foot setback from that property line to such ramada may be eliminated.

**35-1706. Description of preliminary development plan (to accompany a PAD).**

(5) If the City Council approves the PAD zoning designation, the Official Zoning Map shall be so changed by ordinance. The Council may, as necessary, attach conditions to the PAD approval, which may include but are not limited to the following:

(d) Setback and height of buildings.

According to the development representation and Council approved conditions, the minimum setbacks for accessory buildings in Whispering Heights are 10' (side yard) and 20' (rear yard).

**FINDINGS**

Below is a list of the criteria that the Board of Adjustment must use to review each variance request. Following each criterion are Staff's italicized responses. The applicant's written narrative answering the following criteria is included among the memo attachments.

- 1. Explain the special circumstances or conditions that apply to the land, building, or use referred to in the application. The special circumstances cannot be self-imposed by the property owner.**

*The 9,821 square foot lot is a typical size and shape for the neighborhood. The house is laid out on the lot in a typical manner. The lot is one of several with a 4'-high rear retaining wall. There are no special circumstances that apply to the property which do not apply equally to other properties in the neighborhood. The fact that the structure is existing is a self-imposed circumstance. Staff is of the opinion that this criterion has not been satisfied.*

- 2. State why the granting of this variance is necessary for the preservation and enjoyment of substantial property rights.**

*The existing house demonstrates that the property has been allowed to develop and the property owners have enjoyed substantial property rights on land zoned for single-family homes. It is not a property right to build an open-air ramada that violates minimum setbacks. Additionally, a smaller open-air ramada or one that is more east-west oriented*

*could abide by the minimum setbacks. Staff is of the opinion that this criterion has not been satisfied.*

**3. Explain why this variance will not materially be detrimental to persons, property, or the public welfare of the community.**

*The variance would be a detriment to neighboring properties as they do not legally enjoy, nor have been granted approval to construct ramada structures that do not abide by zoning regulations. Staff is of the opinion that this criterion has not been satisfied.*

**PUBLIC/NEIGHBORHOOD NOTIFICATION**

This request was noticed in accordance with the requirements of the Chandler Zoning Code.

At the time of this writing, Staff is not aware of any opposition to the request.

**SUMMARY**

Staff does not support this request. There are no special circumstances applicable to this property that do not apply equally to similar properties in the surrounding area. The requirements to meet minimum setbacks or to not meet the Zoning Code definition for an "open-air ramada" are not hardships for this property. The property has been substantially developed since the home's original construction earlier in 2011.

Granting a variance for this property would, in Staff's opinion, constitute a special privilege inconsistent with the limitations placed upon other similar properties. There are no unique conditions to this location that would support a finding in favor of this application.

**RECOMMENDED ACTION**

Staff recommends denial of this request.

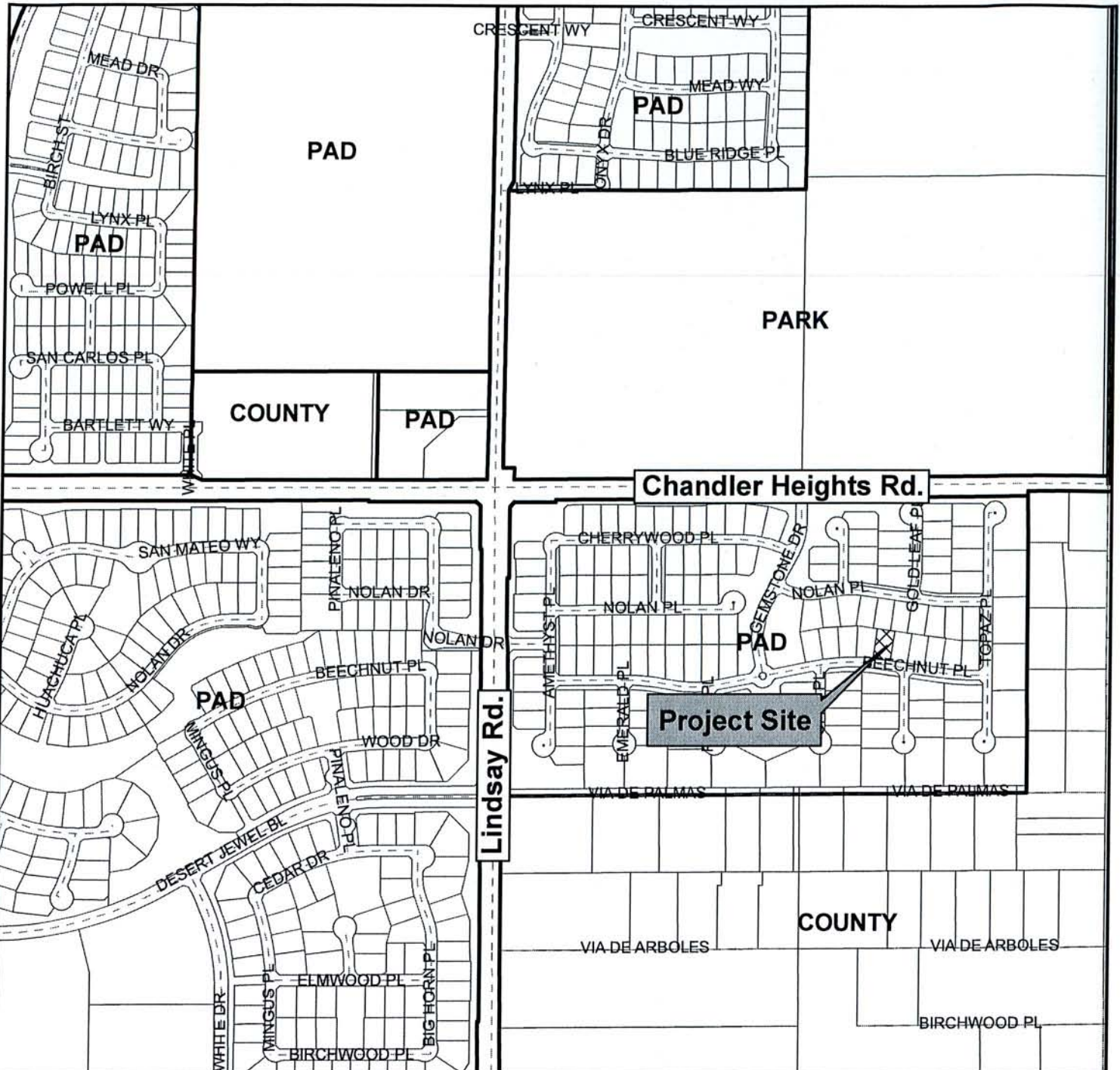
**PROPOSED MOTION**

Move to deny variance request VAR11-0009 KNIGHT RESIDENCE, as recommended by Staff.

**Attachments**

1. Vicinity Maps
2. Site Plan
3. Application and Justification
4. Applicant's Photos
5. Powers and Duties





## Vicinity Map



VAR11-0009

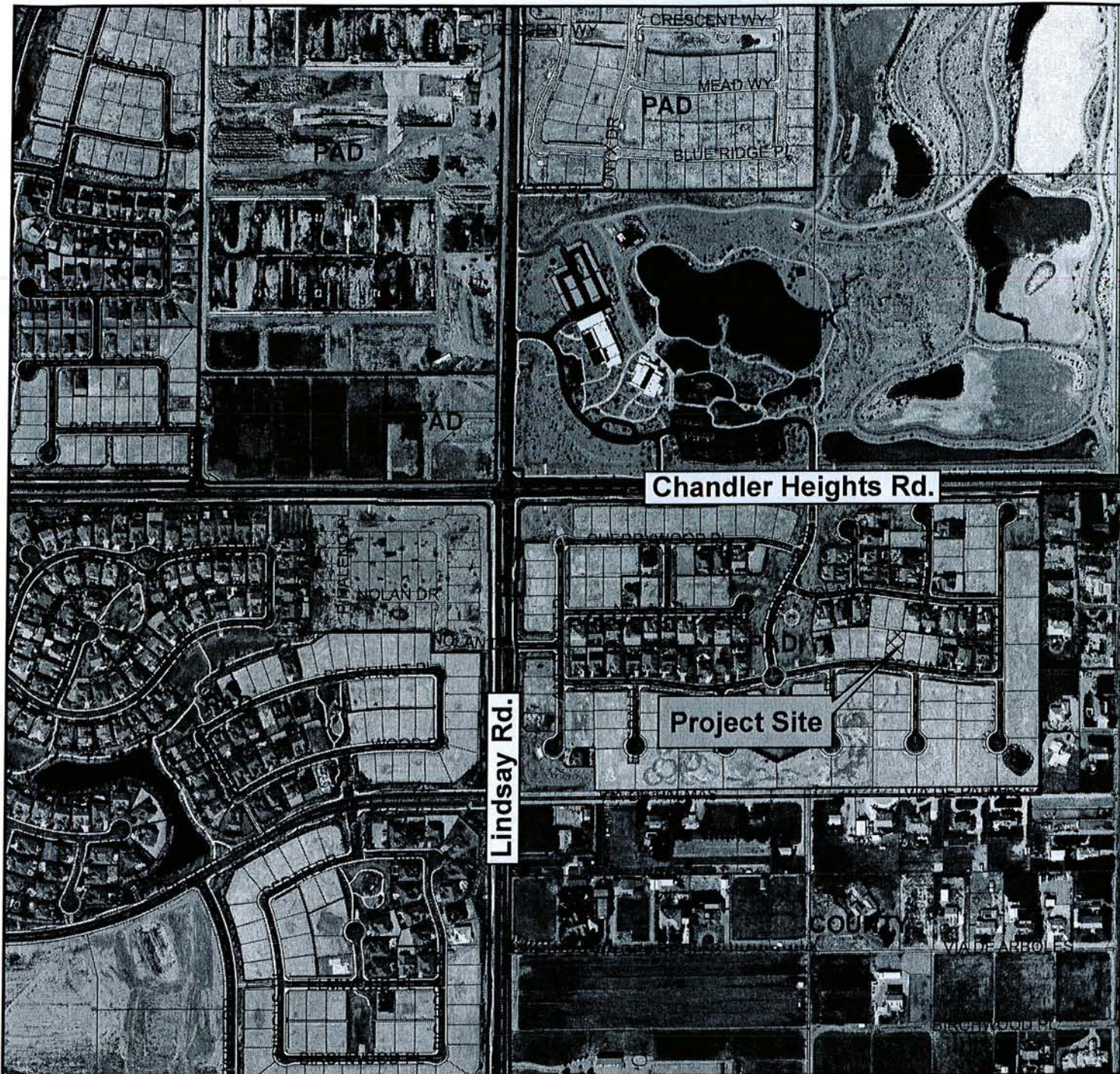
**Knight Residence  
4340 E. Beechnut Pl.**



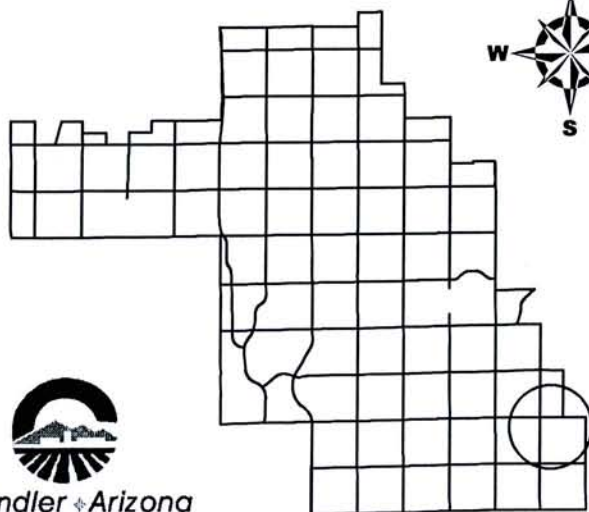
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CITY OF CHANDLER 11/16/2011





## Vicinity Map



VAR11-0009

**Knight Residence  
4340 E. Beechnut Pl.**



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CITY OF CHANDLER 11/16/2011



Plot Plan For:

Scale: 1"=20'

Prepared For:

Date: 2/11/11

Lot 110 Buyer: Inventory  
Whispering Heights  
4340 E. Beechnut Place  
Chandler, Arizona

# Maracay Homes

flex design.

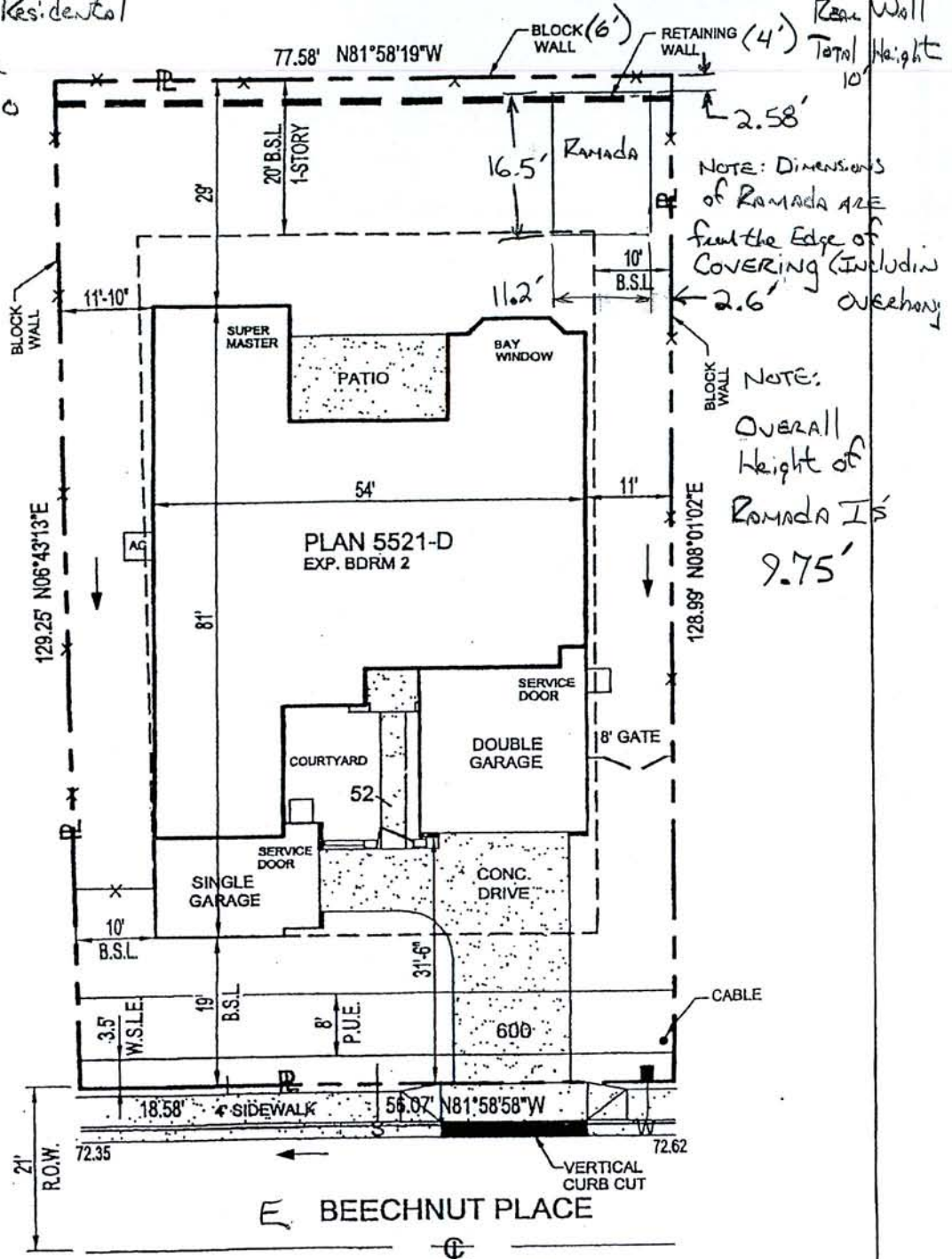
15160 N. Hayden Road, Suite 200  
Scottsdale, AZ 85260, 480-970-6000

NOTE:

Surrounding Land Uses: Residential

Status of Project: Existing

Zoning Dist: SF 8.5 or SF10



Buyer's approval of House Placement:

DATE 2-11-2011  
BUYER  
DATE 2-11-2011  
BUYER

## SETBACK INFORMATION:

FRONT = 18'-24"  
REAR = 20' 1-STORY  
= 30' 2-STORY  
SIDES = 10'

First Flr. L.V. = 2,580  
Garage = 713  
Porch = 36  
Patio = 216  
First Flr. Total = 3,545  
Lot Sq. Ft. = 9,820  
Lot Cov. % = 36.1%

Side for Electrical: = RIGHT

Apx. Length of Block Wall: = 282

## Grading Information:

FIN. FLR. = 73.97  
PAD = 73.30

## LEGEND:

B.S.L. = Building Setback Line  
P.U.E. = Public Utility Easement  
P/L = Property Line  
C/L = Center Line  
R.O.W. = Right of Way  
V.T.E. = Visibility Triangle  
W.S.L.E. = Water/Street Light Esmt

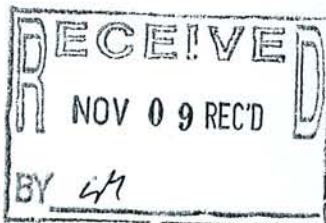
Sunrise Drafting  
Services  
480-899-4173

Note: Every effort has been made to insure the accuracy of the information contained herein but shall not be deemed complete and accurate until verified by personnel of Maracay Homes.





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## Variance Request Application

*If the property owner is not filing the application, please fill out the attached Letter of Authorization for an applicant or project representative to file the application.*

Project or Owner Name Todd C. Knight and Laurie A. Knight		
Property Location/Address 4340 E. Beechnut Place		City, State, Zip Code Chandler, AZ 85249
Type of Variance (waiver) from the Zoning Code you are requesting: 1.) Side Yard Setback Variance for a Open-Air Ramada 2.) Rear Yard Setback Variance for a Open-Air Ramada		
Is this variance for an existing structure (e.g. fence, pool, etc.)? Yes: <input checked="" type="checkbox"/> No: <input checked="" type="checkbox"/>		
Has the City issued a Notice of Violation? Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/> If yes, please attach a copy of the notice/letter.		
Property Owner Name Todd C. Knight and Laurie A. Knight		
Mailing Address 4340 E. Beechnut Place		Phone Number 480-427-2759
City, State, Zip Code Chandler, AZ 85249		Fax Number
Applicant/Representative Name Todd C. Knight		
Mailing Address 4340 E. Beechnut Place		Phone Number Home: 480-427-2759 Cell: 813-494-9752
City, State, Zip Code Chandler, AZ 85249		Fax Number
Property Owner or Representative Signature 		Date 09-Nov-2011
For City Use		
Date Filed 11/9/11	Development No. VAR11-0009	Planner

Mailing Address:  
P.O. Box 4008, MS 401  
Chandler, Arizona 85244-4008

**Transportation and Development Department**  
**Planning Division**  
215 E. Buffalo St., Chandler Arizona 85225

Telephone: (480) 782-3000  
Fax: (480) 782-3010  
[www.chandleraz.gov](http://www.chandleraz.gov)  
Form No: UDM-063/Planning  
Rev: 6-6-11





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## Justification for Variance Request

Please answer the following questions fully in order to prove your case to the Board.

1. Explain the special circumstances or conditions that apply to the land, building, or use referred to in the application. The special circumstances cannot be self-imposed by the property owner.

Open-air ramada is already existing on the property

2. State why the granting of this variance is necessary for the preservation and enjoyment of substantial property rights.

To maintain a balanced look to the existing open air-ramada

To minimize the impact to the structural integrity of the open-air ramada

To help maintain and hopefully increase the property value

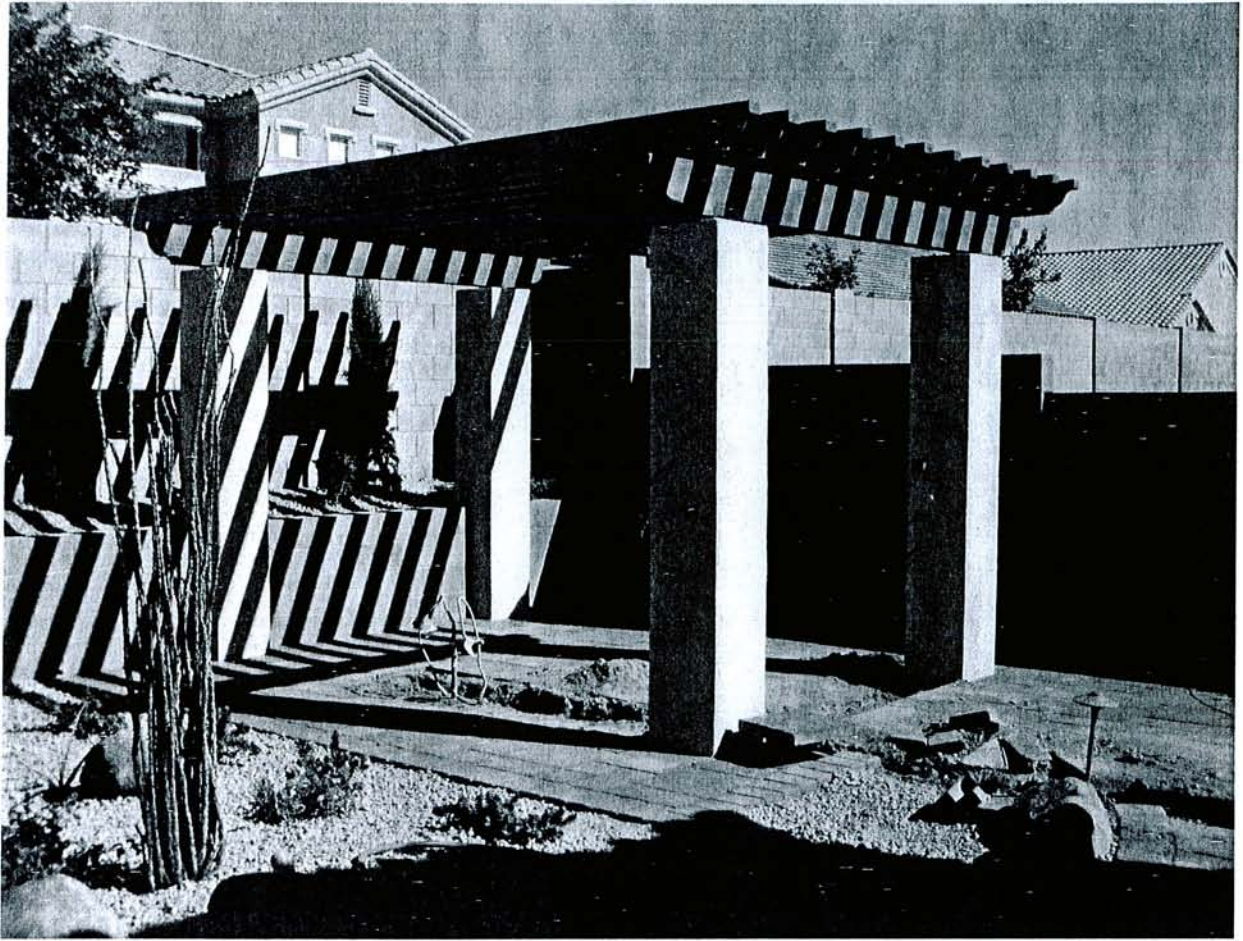


## **Justification for Variance Request (Cont'd)**

3. Explain why this variance will not materially be detrimental to persons, property, or the public welfare of the community.

Open-air Ramada is located in the back far right corner of the property and is not visible by the rear neighbors due to a 6 foot border wall built on a 4 foot retaining wall totalling 10 feet in height and is minimally visible by anyone from the street because of a gate and a tree place in the direct sight-line from the street. The addition of the open-air ramada to the property will help maintain and hopefully increase the property value thus resulting in a higher property values of our neighbors.





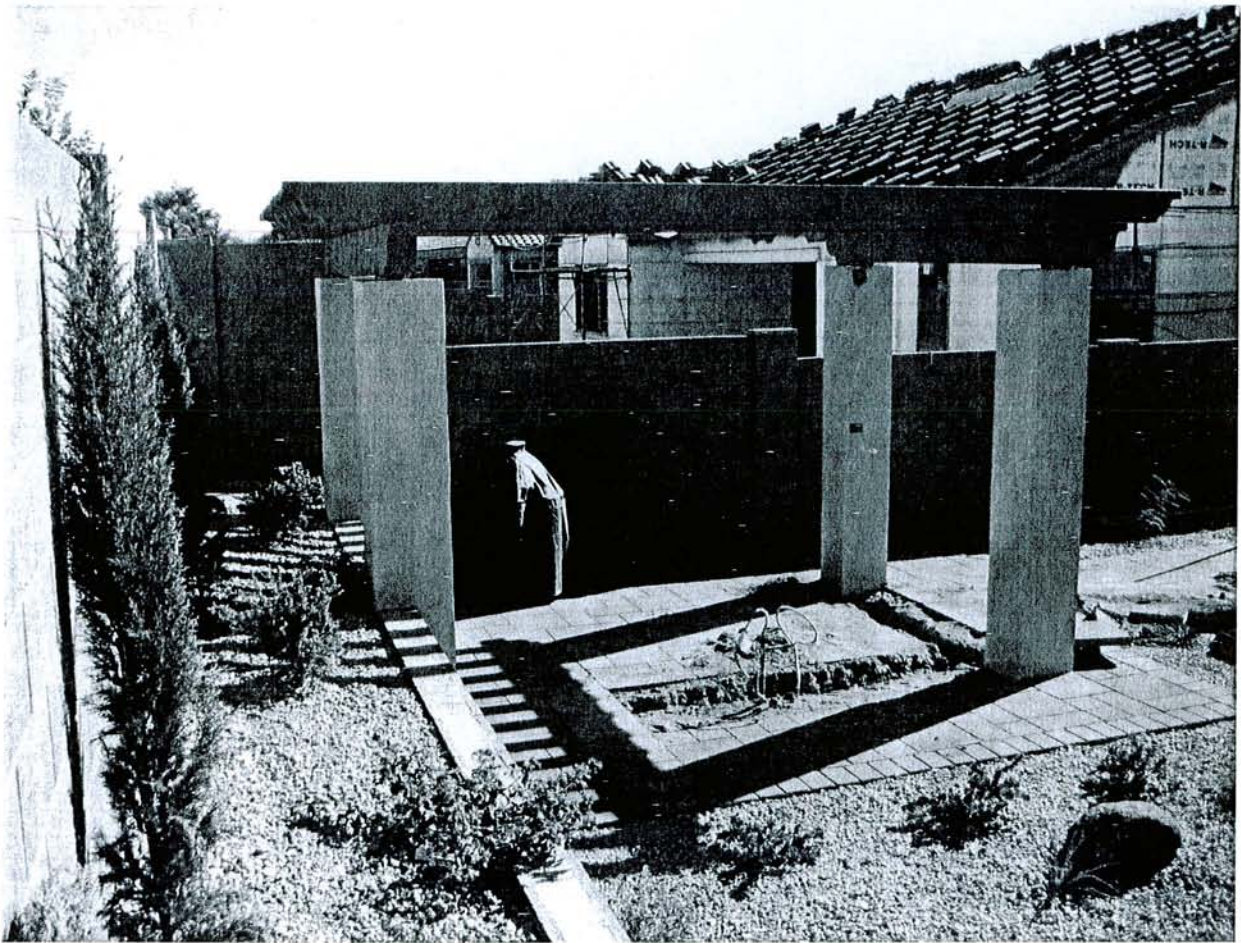
**Open-Air Ramada**

**Todd C. and Laurie A. Knight**

**4340 E. Beechnut Place**

**Chandler, AZ 85249**





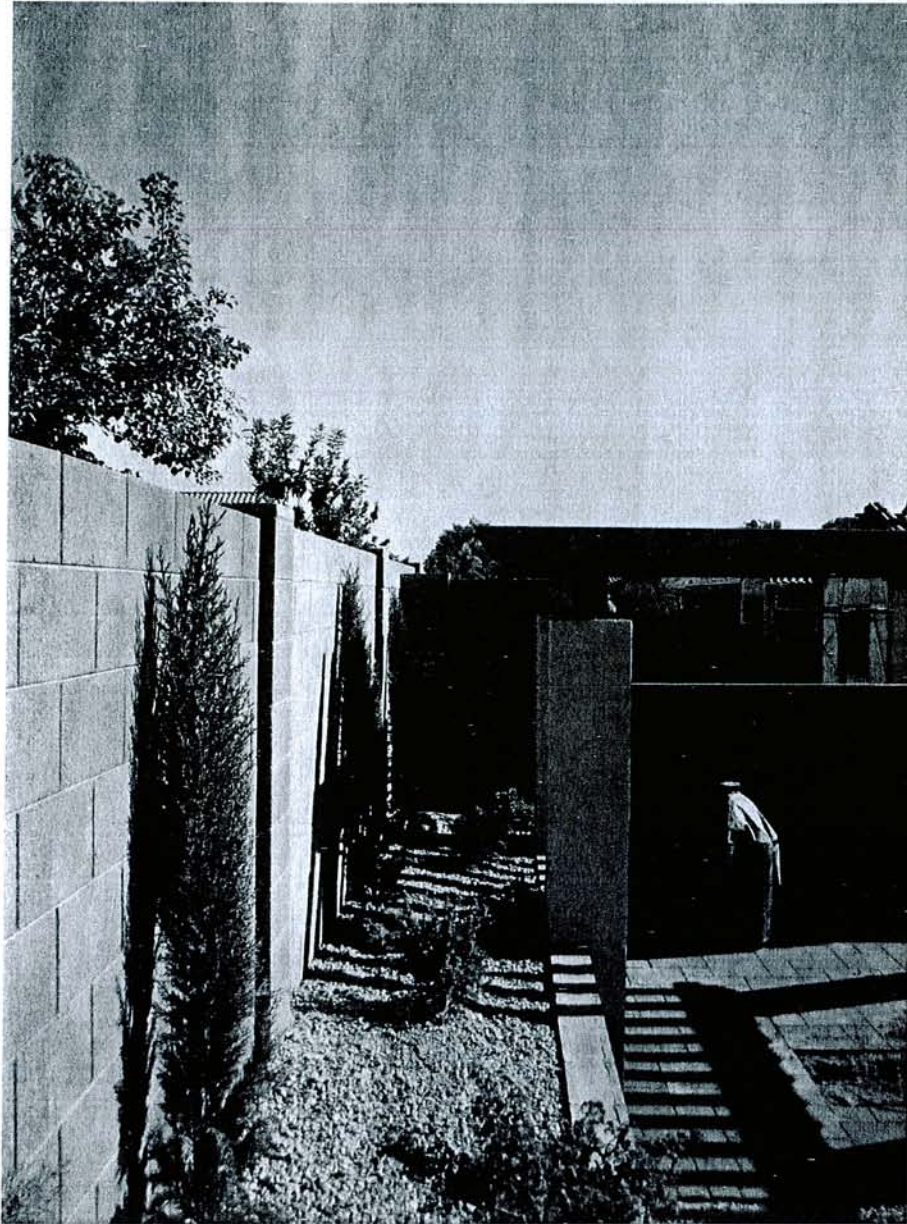
**Rear Set-Back View**

**Todd C. and Laurie A. Knight**

**4340 E. Beechnut Place**

**Chandler, AZ 85249**





**Rear Set-Back View**

**Todd C. and Laurie A. Knight**

**4340 E. Beechnut Place**

**Chandler, AZ 85249**



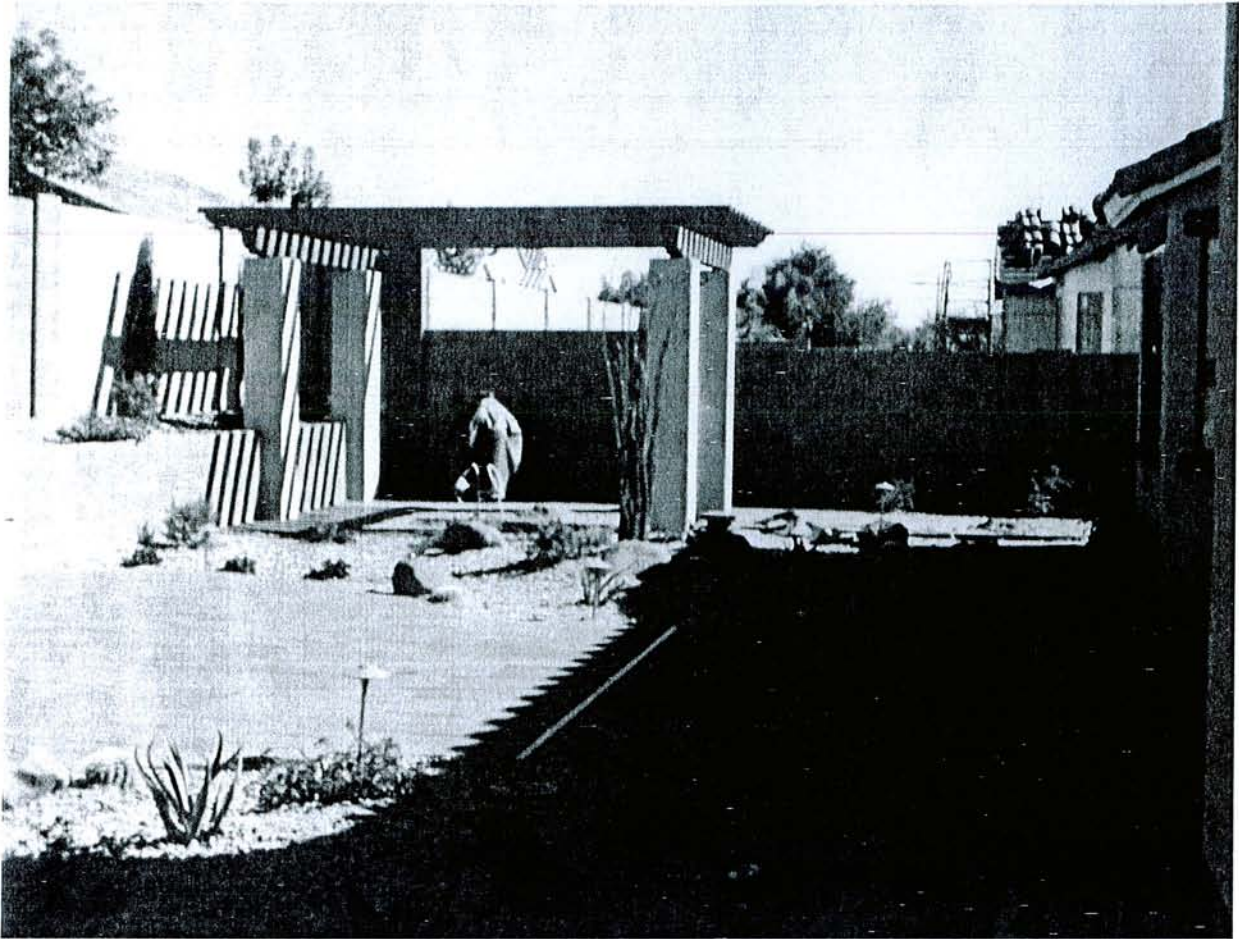


**Side Set-Back View**

**Todd C. and Laurie A. Knight**

**4340 E. Beechnut Place**

**Chandler, AZ 85249**



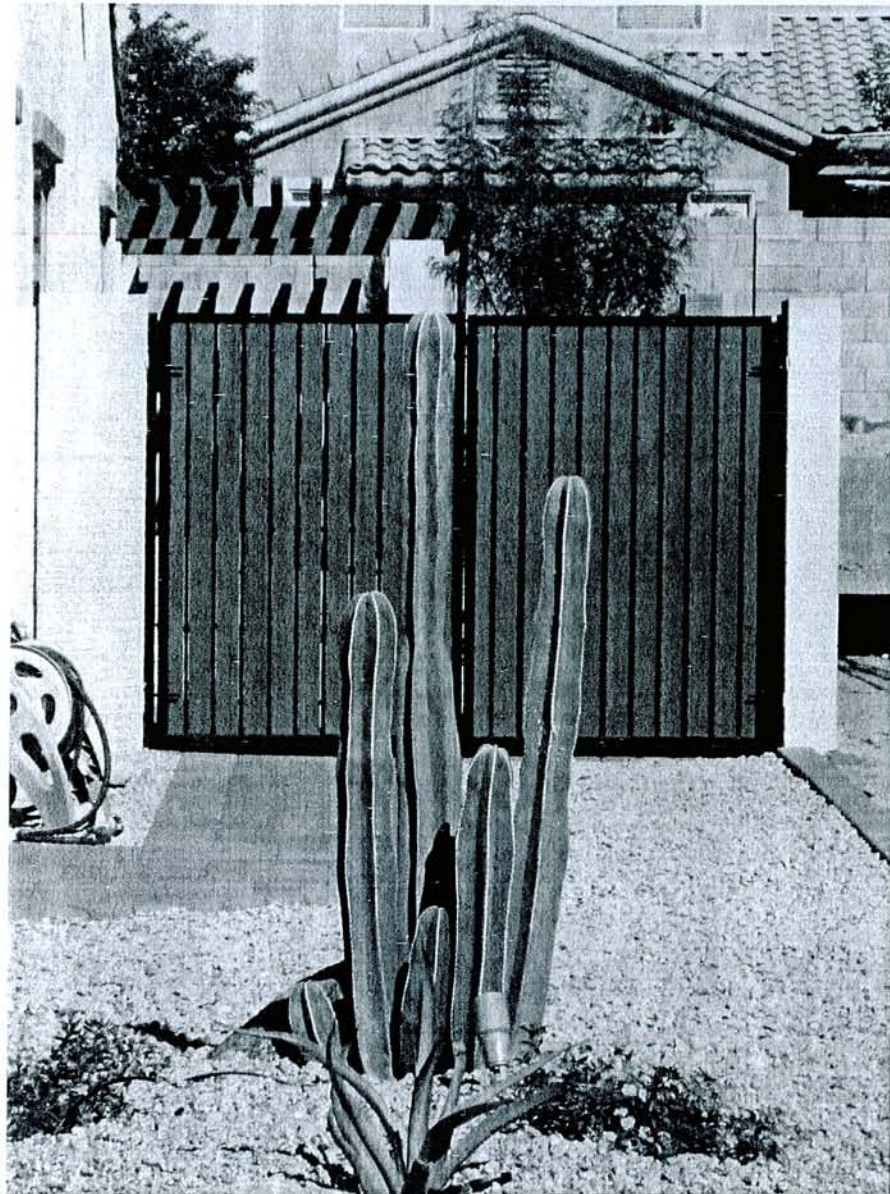
**Over-All Distance View**

**Todd C. and Laurie A. Knight**

**4340 E. Beechnut Place**

**Chandler, AZ 85249**



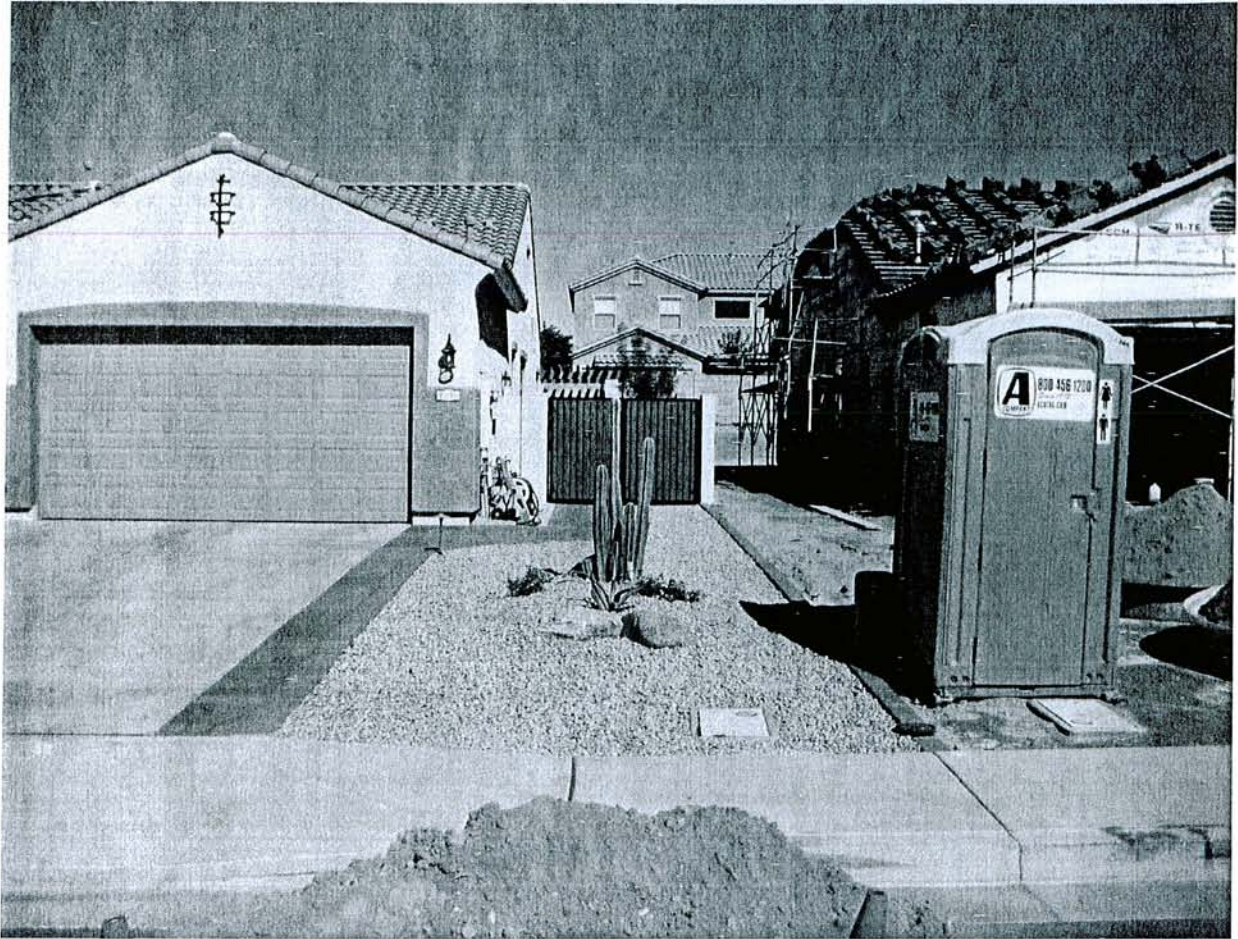


**View from Street (zoomed-in)**

**Todd C. and Laurie A. Knight**

**4340 E. Beechnut Place**

**Chandler, AZ 85249**



**Street View**

**Todd C. and Laurie A. Knight**

**4340 E. Beechnut Place**

**Chandler, AZ 85249**



## **BOARD OF ADJUSTMENT**

### **CHAPTER 35**

#### **35-2502. Powers and duties.**

The Board of Adjustment shall have the following powers and duties:

(1) Adopt rules of procedure not inconsistent with the provisions of this Code for the conduct of its business and procedure.

(2) Hear and decide all appeals that may be taken by any person or any Officer, Department, Board or Division of the City when there is an alleged error in any such order, requirement or decision made by the Zoning Administrator in the enforcement of the provisions of this Code.

(3) Reverse or affirm in whole or in part or modify the order or decision as ought to be made, and [to] that end shall have the powers of the officer for whom the appeal is taken.

(4) Determine and establish the true location of district boundaries in any disputed case.

(5) Interpret any provision of the Zoning Code as it relates to a specific use of land or structure.

(6) In specific cases, authorize upon request such variances from the provisions of this Code that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary property hardships. A variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which such property is located.

(a) A variance shall not be granted unless the Board of Adjustment shall find upon sufficient evidence:

1. There are special circumstances or conditions applying to the land, building or use referred to in the request;
2. The granting of the variance is necessary for the preservation and enjoyment of substantial property right; and
3. The granting of the variance will not materially be detrimental to persons, property or to the public welfare of the community.

(b) The Board of Adjustment may not:

1. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning code provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this article.
2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.